IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8059 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MEDICAL OFFICER & 1 - Petitioner(s)
Versus
JERAM PITAMBAR OFFICER - Respondent(s)

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Appearance :
MS SEJAL K MANDAVIA for Petitioners
MR AMAR D MITHANI for Respondent

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/07/2007

ORAL JUDGMENT

1. Ms. Sejal K. Mandavia, learned counsel for the petitioners; Shri Amar D.Mithani, learned counsel for the respondent.

2. The petitioners being aggrieved by the award dated 11.1.2001 passed by the Presiding Officer, Labour Court [Court No.2], Junagadh in Reference Demand No. 15/94 are before this Court with a submission that on the facts and in the circumstances of the case, the Labour Court could not direct regularization of the services nor could grant consequential reliefs and relief of the arrears of back wages.

3. The short facts necessary for disposal of the present writ application are that the respondent workman was appointed as part-time employee to work for two hours a day; after his discontinuation, Reference came to be filed before the Labour Court, Junagadh. After receiving the pleadings of the parties, the learned Labour Court granted appropriate opportunity to the parties to lead evidence and after hearing them, directed that from and on the date the workman had completed 240 days, he should be regularized on the post of Class-IV employee [on the post of “Patawala”]. The Labour Court also allowed consequential benefits.

4. Ms. Mandavia, learned counsel for the petitioners submits that temporary/part-time employee would not be entitled to reinstatement in case he is terminated, and would not be entitled to an order of regularization even if he worked for long many years. She submits that present is not a case where the Labour Court could interfere.

5. Shri Mithani, learned counsel for the respondent-workman, on the other hand, submitted that the workman had come to the Court with a case that he was required to work for more than two hours and as Dr. Dholakia did not say on oath that the present workman did not work with him for the whole day, it could be presumed that the workman worked for the whole day.

6. It is not in dispute before me that the workman was employed as part-time employee and was required to work for two hours. When a person is employed temporarily on ad-hoc basis and as part-time, then, he cannot be deemed to be regular workman. The Apex Court in many of the judgments has observed that a person who

continues to work as part-time employee and in his appointment, rules of appointment have not been observed, then, such person would not be entitled to reinstatement in case of removal, or regularization in case he comes to the Court seeking regularization. Undisputedly, the workman was not appointed against a permanent vacancy nor he was appointed on temporary basis nor was he required to work for the whole day; if he was a part-time employee, then, he does not acquire any status. The learned Labour Court was absolutely unjustified in issuing directions in favour of the respondent.

7. During pendency of this writ application, the respondent workman who could continue in the services was removed because cadre itself had been abolished. I am simply referring to this fact, because, that has been brought to my notice though it has no importance nor any relevance for decision of the present case.

8. For the reasons stated aforesaid, the petition is allowed. The award dated 11.1.2001 passed by the learned Presiding Officer, Labour Court,

Junagadh in Reference Demand No. 15 of 1994 is hereby set aside and quashed. Rule is made absolute. No costs.

9. It goes without saying that the workman would be entitled to challenge his removal which was made effective during pendency of these proceedings.

[R.S. GARG, J.]

pirzada/-